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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,990	04/03/2001	Masahito Yamamoto	35.C15271	9692

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EXAMINER
SALL, EL HADJI MALICK

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/823,990	YAMAMOTO, MASAHITO
	Examiner	Art Unit	
	El Hadji M. Sall	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 September 2005*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-52* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-52* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   Paper No(s)/Mail Date. _____ .

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)   5) ☐ Notice of Informal Patent Application (PTO-152)

     Paper No(s)/Mail Date _____ .   6) ☐ Other: _____ .

DETAILED ACTION

1.   This action is responsive to the correspondence filed on September 12, 2005.

Claims 1-40 are pending. Claim 41-52 are added. Claims 1, 6-11, 19-21, 26, 27, 29-31

and 36-40 are amended. Claims 1-52 represent Service Management apparatus for

managing service information for services present in network system and apparatus for

instructing service management apparatus.

2.   *Claim Rejections - 35 USC § 102*

(e) the invention was described in a patent granted on an application for patent

by another filed in the United States before the invention thereof by the applicant

for patent, or on an international application by another who has fulfilled the

requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before

the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act

of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior

to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3.   Claims 1-6, 9, 11-16, 19, 21-26,29, 31-36 and 39 are rejected under 35

U.S.C. 102(e) as being anticipated by Saito U.S. 6,563,796.

Saito teaches the invention as claimed including apparatus for quality of service

evaluation and traffic measurement (see abstract).

As to claim 1, Saito teaches a service management apparatus for use in a

network system capable of providing various services dispersed in a plurality of

apparatuses, managing service information of the various services present on the

network system and transferring the managed service information to an external

apparatus in response to a request from the external apparatus, said service

management apparatus comprising:

       test means for executing a process of a trial use of one of the various services

provided by one of the plurality of apparatuses, wherein, in said trial use, said test

means sends data to the service (figure 1; column 6, lines 3-8, Saito discloses quality of

service evaluation and measurement of traffic, is utilized in networks such as ATM to

transmit data units identified by specific header);

evaluation means for evaluating the quality of the service, based on a result of

the trial use of the service executed by said test means (column 11, lines 16-23; column

14, lines 50-51);

renewal means for renewing the managed service information based on the

evaluated quality renewal means for renewing the managed service information based

on the evaluated quality evaluated by said evaluation means (column 11, lines 24-27).

As to claim 2, Saito teaches a service management apparatus according to claim

1, wherein said evaluation means evaluates the result of the trial use of the service

executed by said test means by a predetermined evaluation function (see abstract,

Saito discloses the estimated arrival times at the attention point, produced by the arrival

time estimation section, according to a predetermined logic equation).

As to claim 3, Saito teaches a service management apparatus according to claim

2, wherein said renewal means deletes the managed service information in case the

evaluation by the predetermined evaluation function does not meet a predetermined

reference (column 11, lines 48-54, Saito discloses the cell info register 302 is written to

the readout register 303. CPU 215 reads the content of the readout register 303. The

object VPI/VCI in the cell info register 302 is deleted).

As to claim 4, Saito teaches a service management apparatus according to claim

2, wherein the predetermined evaluation function evaluates the quality of the service

based on the time required for calling the service (column 3, lines 20-35, Saito discloses

in this case, the estimating section may include means for estimating an arrival time,

and where said estimated arrival time of said first cell is given by a sum of base time T).

As to claim 5, Saito teaches a service management apparatus according to

claim2, wherein the predetermined evaluation function evaluates the quality of the

service based on an error frequency of generated by a service calling (column 19, lines

56-66, Saito discloses the low layer processing section 4, first performs such tasks as

taking out cells from SDH frame and error correction using HEC and sends the cells to

the state managing section).

As to claim 6, Saito teaches a service management apparatus according to

claim1, wherein:

said test means executes an access process for writing data to a storage service

and reading data from the storage service on a trial basis (column 11, lines 42-54, Saito

discloses writing result to the readout register 303, and the content of the readout

register 303 is read by the CPU 215).

said evaluation means evaluates the quality of the storage service based on the

result of the access process performed by said test means (column 14, lines 43-49,

Saito discloses when M timer values are obtained, CPU 1021 calculates average packet

arrival interval A, standard deviation S for packet arrival intervals, average packet length

LA).

As to claim 9, Saito teaches a service management apparatus for use in a

network system capable of providing various services dispersed in plural apparatuses,

for managing the service information on the various services present on said network

system and transferring the managed service information to an external apparatus in

response to a request from the external apparatus, said apparatus comprising:

test means for executing a process of a trial use of a service of another

apparatus belonging to the same group as that of said apparatus, wherein, in said trial

use, said test means sends data to the service (figure 1; column 6, lines 3-8, Saito

discloses quality of service evaluation and measurement of traffic, is utilized in networks

such as ATM to transmit data units identified by specific header);

evaluation means for evaluating the quality of the service, based on a result of

the trial use of the service executed by said test means (column 11, lines 16-23; column

14, lines 50-51);

deletion means for instructing, in a case the quality evaluated by said evaluation

means does no meet a predetermined reference, the service management apparatus to

delete the service information from said service management apparatus (column 7,

lines 3-10).

Claims 11-16, 19, 21-26, 29, 31-36 and 39 do not teach or define any new

limitations above claims 1-6, and 9, and therefore are rejected for similar reasons.

4.   *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

5.   Claims 7, 17, 27 and 37 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Saito U.S. 6,563,796 in view of Kondylis et al. U.S. 6,621,805.

Saito teaches the invention substantially as claimed including apparatus for quality

of service evaluation and traffic measurement (see abstract).

As to claim 7, Saito teaches a service management apparatus according to claim

1.

Saito fails to teach explicitly said evaluation means detects the number of colors or recording sheets available in an imaging service and evaluates the quality of the service based on the number of colors or recording sheets available in the service.

However, Kondylis teaches method and apparatus for multicasting real-time variable bit-rate traffic in wireless ad-hoc network. Kondylis teaches said evaluation means detects the number of colors or recording sheets available in an imaging service and evaluates the quality of the service based on the number of colors or recording sheets available in the service (see abstract; column 12, lines 11-12, Kondylis discloses RCds represents the desired number of receive colors, as estimated by the node based on the current traffic load).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saito in view of Kondylis to introduce evaluation means detects the number of colors available in an imaging service and to evaluate the quality based on the number of colors available in the service. One would be motivated to do so to prevent packet collisions (see abstract).

Claims 17, 27 and 37 do not teach or define any new limitations above claim 7, and therefore are rejected for similar reasons.

6.   Claims 8, 18, 28 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito U.S. 6,563,796 in view of Elliot et al U.S. 5,867,495.

Saito teaches the invention substantially as claimed including apparatus for quality of service evaluation and traffic measurement (see abstract).

As to claim 8, Saito teaches a service management apparatus according to claim1.

Saito fails to teach the plurality of apparatuses include a printer.

However, Elliott teaches system, method and article of manufacture for communications utilizing calling, plans in a hybrid network. Elliot teaches a printer (figure 1, item 30)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saito in view of Elliot to include a printer in the plurality of apparatuses. One would be motivated to do so to allow the QoS evaluation apparatus to print out the monitored and evaluated QoS.

Claims 18, 28 and 38 do not teach or define any new limitations above claims 1-6, and 9, and therefore are rejected for similar reasons.

7.   Claims 10, 20, 30 and 40-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito U.S. 6,563,796 in view of Yamamura et al. U.S. 6,028,838.

Saito teaches the invention substantially as claimed including apparatus for quality of service evaluation and traffic measurement (see abstract).

As to claim 10, Saito teaches a service management apparatus for use in a network system capable of providing various services dispersed in plural apparatuses, for managing information of various services present on said network system and transferring the managed service information to an external apparatus in response to a request from the external apparatus, the apparatus comprising:

test means for executing a process of the trial use of a service of another apparatus belonging to a same group as that of said apparatus, wherein in said trial use, said test means sends data to the service (figure 1; column 6, lines 3-8, Saito discloses quality of service evaluation and measurement of traffic, is utilized in networks such as ATM to transmit data units identified by specific header);

evaluation means for evaluating the quality of said service, based on the result of the trial use of the service (column 11, lines 16-23; column 14, lines 50-51).

Saito fails to teach explicitly substitution means for instructing, in case the evaluated quality does not meet a predetermined reference, said service management apparatus to substitute the service provided by said another apparatus with a service provided by said apparatus.

However, Yamamura teaches navigation apparatus. Yamamura teaches substitution means for instructing, in a case the quality evaluated by said evaluation means does not meet a predetermined reference, said service management apparatus

to substitute the service provided by said another apparatus with a service provided by said apparatus (column 14, lines 45-47).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saito in view of Yamamura to provide substitution means for instructing, in case the evaluated quality does not meet a predetermined reference, said service management apparatus to substitute the service provided by said another apparatus with a service provided by said apparatus. One would be motivated to do so to allow redundancy.

As to claim 41, Saito teaches a service management apparatus according to claim 1.

Saito fails to teach explicitly sending a service request to the one service and receives a response from the one service after the service executes a predetermined process in the one apparatus.

However, Yamamura teaches sending a service request to the one service and receives a response from the one service after the service executes a predetermined process in the one apparatus (column 8, lines 51-62).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saito in view of Yamamura to provide sending a service request to the one service and receives a response from the one service after the service executes a predetermined process in the one apparatus. One would be motivated to do so to allow proper selection of service.

Claims 20, 30 and 42-52 do not teach or define any new limitations above claims

10, and therefore are rejected for similar reasons.

8.   *Response to Arguments*

Applicant's arguments filed 09/12/05 have been fully considered but they are not

persuasive.

As to claim 1, applicant argues it appears that Saito actually teaches away from

using two-way communication, and furthermore nothing in Saito would suggest placing

this additional traffic back on the network.

In regards to the above point, examiner respectfully disagrees.

Features such as "using two-way communication, and placing additional traffic

back on the network" are in the claims' language.
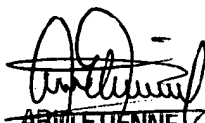
9.   *Conclusion*

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to El Hadji M Sall whose telephone number is 703-306-

4153. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on 703 308-7562. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

El Hadji Sall
Patent Examiner
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